IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1372 OF 2004

Madhavrao Anandrao Bacche Patil & Anr. ..Appellants

Versus

Dinkar Bala Bacche Patil & Anr. ..Respondents

Mr.Pratap V.Patil for appellants

CORAM : P.V.KAKADE, J.

DATE : 5TH JULY, 2005.

P.C.:

1. The appellants have preferred this appeal against the judgment and order passed by Addl. District Judge, Kolhapur dated 7.4.2004 dismissing the appeal and confirming the judgment and order passed by Civil Judge, Junior Division, Panhala dated 19.10.1992 decreeing the suit of the plaintiff and issuing perpetual injunction against the defendants.

2. I have heard the learned counsel for the appellants. Perused the record.

3. The plaintiffs had filed the suit for perpetual injunction against the defendants on the ground that they were in lawful possession of the property with reference to their legal title therein and the defendants have obstructed their peaceful possession, against this they have filed the present suit. The defendants resisted the suit on various grounds denying the plaintiffs claim that they were in lawful possession of the suit property.

4. The learned trial judge adjudicated the issue and came to the conclusion that the plaintiffs have proved that they were having lawful possession of the suit property and the defendants were obstructing the same and as such the suit came to be decreed. The appeal was carried to the District Court. The learned Addl. District Judge after hearing both the parties held that the findings recorded by the trial court were legal and proper and dismissed the appeal. Hence the present appeal.

5. At the outset it may be noted that there is no substantial question of law involved in this appeal. Perusal of the judgment of both the courts below categorically showed that the plaintiffs have proved by cogent evidence that they are in lawful possession of the property and it is referable to their title. It must be noted that the suit for perpetual injunction simplicitor and therefore, only issue involved was about lawful possession on the date of the suit, which is proved to be that of the plaintiffs and hence the concurrent findings are effected that the plaintiffs were in possession of the suit property at the relevant time. Therefore, no interference is warranted by way of this appeal and hence the appeal stands dismissed.

. Consequently Civil Application No.1833 of 2004 also stands dismissed.

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